

ENTERED

August 25, 2021

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

UNITED STATES OF AMERICA,

VS.

1.044 ACRES OF LAND, MORE OR
LESS, *et al*,

Defendants.

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CIVIL ACTION NO. 7:20-CV-252

**ORDER FOR OPPOSED MOTION BY THE UNITED STATES OF AMERICA
TO CLOSE CASE PURSUANT TO 28 U.S.C. § 2042**

The Court has considered the motion by the United States of America to close the above captioned proceeding, and the Court is of the opinion that it should be granted.

On June 7, 2021, this Court found that Noelia Muniz Villareal, the unknown heirs of Victoriana Muniz, and the Estate of Eva M. Alvarado were the owners of Tract RGV-RGC-5052 at the time of the taking made the subject of this action.¹ The Court determined that the ownership interest in the Subject Property of this eminent domain case are as follows:

- 1/2 (or 50%) an undivided interest belonging to Noelia Muniz Villareal,
- 1/4 (or 25%) undivided interest belonging to the Unknown Heirs of Victoriana Muniz,
- 1/4 (or 25%) undivided interest belonging to the Estate of Eva M. Alvarado.

¹ Dkt No. 23.

It further determined Noelia Muniz Villareal possessed the property, and paid property taxes on it, for a period of time sufficient to establish [the] necessary requirements [of] adverse possession.”; *see* TEX. CIV. PRAC. & REM. CODE § 16.025.

On August 6, 2021, this Court also found that the United States’ total deposits of \$8,000.00 in the Court’s registry constitute just compensation for the fee taking.² Therefore, the remaining funds are Noelia Muniz Villareal’s, the unknown heirs of Victoriana Muniz’s, and the Estate of Eva M. Alvarado’s shares of the just compensation. The interests in just compensation of the Subject Property of this eminent domain case are to be disbursed as follows:

- \$4,000 (1/2 or 50%) paid to Noelia Muniz Villareal,
- \$2,000 (1/4 or 25%) paid to the Unknown Heirs of Victoriana Muniz,
- \$2,000 (1/4 or 25%) paid to the Estate of Eva M. Alvarado.

The remaining funds in the registry of the Court, \$8,000.00, for the fee taking, is the final amount of just compensation owed to the interested parties, Noelia Muniz Villareal, the unknown heirs of Victoriana Muniz, and the Estate of Eva M. Alvarado. However, because Noelia Muniz Villareal has been avoiding the United States and has made no effort to present a claim for the remaining funds, there is no benefit at present to leave this case open on the Court’s docket.

Based on the foregoing, the Court **ORDERS** that the Clerk of Court leave the remaining funds of \$8,000.00 in the Court’s registry, along with any accrued interest earned thereon while on deposit, unless and until Noelia Muniz Villareal (or her heirs), the unknown heirs of Victoriana Muniz, and the Estate of Eva M. Alvarado (or her heirs) decide to claim it.

The Court further **ORDERS**, whereas now, all Defendants to this action and all persons in possession or control of the property described in the Complaint and Declaration of Taking to

² Dkt No. 26.

immediately surrender possession of the condemned estate to the United States.

Further, the Court **ORDERS** that the above-captioned case be closed.

Finally, the Court **ORDERS** that the closing of this case is without prejudice to any claimant petitioning the Court for a partial or full disbursement of the just compensation remaining in the Registry of the Court in this case. Any claimant believing it is entitled to just compensation in this matter may petition the Court pursuant to 28 U.S.C. § 2042 for a disbursement after providing the required notice to the United States Attorney's Office for the Southern District of Texas and presenting the appropriate proof of the claimant's right to the just compensation requested.

SO ORDERED this 25th day of August, 2021, at McAllen, Texas.

A handwritten signature in black ink, reading "Randy Crane", is written over a horizontal line.

Randy Crane
United States District Judge